

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Benjamin Shelton	Team: Squad #11	CCRB Case #: 201906121	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 07/12/2019 4:13 PM	Location of Incident: in front of 196 Graham Avenue	Precinct: 90	18 Mo. SOL 1/12/2021	EO SOL 8/29/2021	
Date/Time CV Reported Fri, 07/12/2019 4:58 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 07/12/2019 4:58 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Jessica Schrell	26482	953384	090 PCT
2. SGT Gregg Minardi	00608	940475	079 PCT
3. POM Tyler Howe	14840	961822	090 PCT
4. POM Michael Crichlow	20395	960083	090 PCT
5. POM Joseph Lorenzi	09570	959769	090 PCT
6. POM Philippe Vukosa	22128	953542	090 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POF Jessica Schrell	Abuse: Police Officer Jessica Schrell stopped the vehicle in which § 87(2)(b) was an occupant.	
B.POM Tyler Howe	Abuse: Police Officer Tyler Howe stopped the vehicle in which § 87(2)(b) was an occupant.	
C.POM Joseph Lorenzi	Abuse: Police Officer Joseph Lorenzi stopped the vehicle in which § 87(2)(b) was an occupant.	
D.POF Jessica Schrell	Abuse: Police Officer Jessica Schrell questioned § 87(2)(b)	
E.POF Jessica Schrell	Abuse: Police Officer Jessica Schrell threatened § 87(2)(b) with the use of force.	
F.SGT Gregg Minardi	Abuse: Sergeant Gregg Minardi threatened to arrest § 87(2)(b)	
G.SGT Gregg Minardi	Abuse: Sergeant Gregg Minardi refused to provide his shield number to § 87(2)(b)	
H.POM Tyler Howe	Abuse: Police Officer Tyler Howe refused to provide his name to § 87(2)(b)	
I.POM Tyler Howe	Abuse: Police Officer Tyler Howe refused to provide his shield number to § 87(2)(b)	
J.POM Michael Crichlow	Abuse: Police Officer Michael Crichlow refused to provide his name to § 87(2)(b)	
K.POM Michael Crichlow	Abuse: Police Officer Michael Crichlow refused to provide his shield number to § 87(2)(b)	
L.POM Michael Crichlow	Abuse: Police Officer Michael Crichlow frisked § 87(2)(b)	
M.POM Michael Crichlow	Abuse: Police Officer Michael Crichlow searched § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
N.SGT Gregg Minardi	Abuse: Sergeant Gregg Minardi interfered with § 87(2)(b) s use of a recording device.	
O.POF Jessica Schrell	Abuse: Police Officer Jessica Schrell searched the vehicle in which § 87(2)(b) was an occupant.	
P.POM Tyler Howe	Abuse: Police Officer Tyler Howe searched the vehicle in which § 87(2)(b) was an occupant.	
Q.SGT Gregg Minardi	Abuse: Sergeant Gregg Minardi searched the vehicle in which § 87(2)(b) was an occupant.	
R.POM Tyler Howe	Abuse: Police Officer Tyler Howe failed to provide § 87(2)(b) with a business card.	
S.POM Michael Crichlow	Abuse: Police Officer Michael Crichlow failed to provide § 87(2)(b) with a business card.	
T.SGT Gregg Minardi	Abuse: Sergeant Gregg Minardi failed to provide § 87(2)(b) with a business card.	
U.POM Joseph Lorenzi	Abuse: Police Officer Joseph Lorenzi failed to provide § 87(2)(b) with a business card.	
§ 87(4-b), § 87(2)(g)		

### Case Summary

On July 12, 2019, § 87(2)(b) filed the following complaint over the phone with the CCRB.

On July 12, 2019, at approximately 4:13 p.m., § 87(2)(b) was driving alone along Graham Avenue in Brooklyn when 90<sup>th</sup> Precinct officers PO Jessica Schrell, PO Tyler Howe, and PO Joseph Lorenzi pulled him over in front of 196 Graham Avenue (**Allegations A-C: Abuse of Authority, § 87(2)(g)**). While § 87(2)(b) spoke with PO Schrell through the open driver's window of his vehicle, 90<sup>th</sup> Precinct officers Sgt. Gregg Minardi, PO Michael Crichlow, and PO Philippe Vukosa arrived just after the stop was initiated after they observed it during their own routine patrol. PO Schrell asked § 87(2)(b) when he last smoked marijuana in his vehicle and ordered him out of it (**Allegation D: Abuse of Authority, § 87(2)(g)**). When § 87(2)(b) refused to exit, PO Schrell threatened to forcibly remove him (**Allegation E: Abuse of Authority, § 87(2)(g)**). Sgt. Minardi also threatened to arrest him for not following orders (**Allegation F: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) allegedly asked Sgt. Minardi for his shield number which he did not provide and PO Howe and PO Crichlow for their names and shield numbers which they did not provide (**Allegations G-K: Abuse of Authority, § 87(2)(g)**). When § 87(2)(b) stepped out of the vehicle, PO Crichlow frisked his pants pockets (**Allegation L: Abuse of Authority, § 87(2)(g)**). PO Crichlow also allegedly reached inside of his pants pockets (**Allegation M: Abuse of Authority, § 87(2)(g)**). § 87(2)(b) who had his phone out to record the incident, went to the rear of his vehicle with Sgt. Minardi, who told § 87(2)(b) to put his phone down (**Allegation N: Abuse of Authority, § 87(2)(g)**). PO Schrell and PO Howe allegedly searched the front and rear areas of § 87(2)(b)'s vehicle and PO Schrell and Sgt. Minardi allegedly searched the trunk (**Allegation O-Q: Abuse of Authority, § 87(2)(g)**). PO Howe, PO Crichlow, Sgt. Minardi, and PO Lorenzi all failed to offer § 87(2)(b) their business cards before leaving the scene (**Allegations R-U: Abuse of Authority, § 87(2)(g)**).

§ 87(2)(g), § 87(4-b)

No arrests were made and no summonses were issued.

Body-worn camera (BWC) footage of this incident was obtained from the NYPD Legal Bureau (BR 01-09). Additional footage was obtained from § 87(2)(b)'s cellphone (BR 10-11).

### Findings and Recommendations

**Allegation A – Abuse of Authority: Police Officer Jessica Schrell stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation B – Abuse of Authority: Police Officer Tyler Howe stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation C – Abuse of Authority: Police Officer Joseph Lorenzi stopped the vehicle in which § 87(2)(b) was an occupant.**

It is undisputed that § 87(2)(b) had tints on his front and rear windshields at the time of this incident.

Footage from PO Schrell's BWC captures these allegations (BR 03). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 0:23, PO Schrell exits the driver's seat of a police vehicle and approaches § 87(2)(b)'s vehicle, which is stopped in front of her own. At 0:27, there is a clear view of § 87(2)(b)'s rear windshield, which is noticeably tinted. At 1:17, as § 87(2)(b) complains about being pulled over, PO Howe tells § 87(2)(b) that he drew attention himself by playing loud music and having window tints in his vehicle.

§ 87(2)(b) was driving along Graham Avenue in Brooklyn, when an unmarked police vehicle activated its lights and pulled him over in front of 196 Graham Avenue. He testified that at the time of the incident, the rear windshield of his vehicle was tinted to a degree that at night it would be impossible to see inside from the outside. He added that the front windshield of the vehicle was slightly tinted. (BR 12).

PO Schrell had no recollection of the incident (BR 13).

PO Howe recalled tints on the rear windshield, though PO Howe did not recall specifically why his unit stopped § 87(2)(b) (BR 14).

PO Lorenzi had no recollection of tints, but he did recall PO Schrell and/or PO Howe stating their observation of tints on § 87(2)(b)'s vehicle prior to initiating the stop. (BR 15).

No person shall operate any motor vehicle upon any public highway, road or street with a rear window covered by or treated with any material which has a light transmittance of less than seventy percent New York State Vehicle and Traffic Law 375 12-a (BR 20).

§ 87(2)(g)

#### **Allegation D – Abuse of Authority: Police Officer Jessica Schrell questioned § 87(2)(b)**

Footage from PO Schrell's BWC captures this allegation (BR 03). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 3:20, as § 87(2)(b) complains that he is being racially profiled and that white people are not pulled over for tints, PO Schrell opens the driver's door and asks him when the last time he smoked marijuana in the vehicle. At 3:30, after PO Schrell orders him out of the vehicle and § 87(2)(b) asks why, Sgt. Minardi tells him it is due to the odor of marijuana. At 4:37, PO Schrell reiterates that officers detected the odor of marijuana. At no other point in the available video evidence does any other officer ask § 87(2)(b) about marijuana.

§ 87(2)(b) recalled PO Howe asking him about the last time he smoked marijuana. He disputed any odor of marijuana that could have emanated from his vehicle. Either PO Howe or Sgt. Minardi told him that is what everyone who smokes marijuana tells them. § 87(2)(b) stated that that he had never smoked marijuana or anything else in his vehicle and had no marijuana or paraphernalia, such as an ashtray, that would smell like smoked marijuana. § 87(2)(b) confirmed to the officers that he was the only driver of his vehicle and that no other individuals would have been able to smoke in his car without his knowledge, and he was not aware of anyone doing so.

PO Schrell had no independent recollection of the incident at all. She recognized her voice in the above-referenced footage as asking § 87(2)(b) the last time he smoked marijuana in the vehicle and she assumed, based on the footage, it was because she smelled marijuana at the time of the vehicle stop. She made it clear that any statements she provided were based solely on the footage and she still had no independent recollection after a review of her own BWC footage.

PO Howe did not independently recall detecting any odor of marijuana.

When PO Lorenzi got to the side of the vehicle, he detected the odor of burnt marijuana coming from the vehicle, specifically from the rear driver's side window near where he stood. He made no visual observations of marijuana inside the vehicle.

Sgt. Minardi detected a strong odor of burnt marijuana coming out of the open windows of § 87(2)(b)'s vehicle. He only smelled it once directly next to the vehicle. He stated Graham Avenue is typically busy with motorists and pedestrians but made no observations that the odor of marijuana could be emanating from anywhere else but § 87(2)(b)'s vehicle. Sgt. Minardi has had the sensation of approaching a corner and detecting a general odor of marijuana, but he did not have that sensation in this incident and localized it directly to § 87(2)(b)'s vehicle. He made no

observations of § 87(2)(b) or visual observations of the vehicle that indicated the use or presence of marijuana (BR 16).

PO Crichlow had no independent recollection of the incident and based his testimony on a review of his BWC footage prior to his interview. He recalled that at some point at least one officer detected the odor of marijuana coming from § 87(2)(b)'s vehicle, but he did not recall the specific detection of the odor of marijuana (BR 17).

PO Vukosa did not recall an odor of marijuana emanating from § 87(2)(b) or his vehicle (BR 18).

§ 87(2)(g)

§ 87(2)(g)

**Allegation E – Abuse of Authority: Police Officer Jessica Schrell threatened § 87(2)(b) with the use of force.**

Footage from Sgt. Minardi's BWC captures this allegation (BR 05). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 2:35, PO Schrell tells § 87(2)(b) to step out of the vehicle and Sgt. Minardi reiterates this order twice more. § 87(2)(b) tells officers he is not going to exit. At 3:00, PO Schrell tells him, "Let me tell you something. Either you get out, or we take you out." § 87(2)(b) stays seated in the driver's seat and PO Schrell tells him, "You're a grown man. Come out the car or we're going to take you out the car." § 87(2)(b) tells officers he is going to step out and does so of his own volition at 4:35.

PO Schrell had no independent recollection of the incident. She understood that if she detected the odor of burnt marijuana during a vehicle stop, she had the right to remove the occupant(s). If a person refused to leave after multiple orders, she could forcibly remove them. When presented the above referenced footage, she assumed she asked § 87(2)(b) out of the vehicle she assumed because she smelled marijuana at the time of the vehicle stop. She made it clear that any statements she provided were based solely on the footage and she still had no independent recollection after a review of her BWC footage.

PO Howe recalled § 87(2)(b) initially refusing to exit the vehicle. He recalled no officer threaten to forcibly remove him but explained that officers could have forced his compliance by physically taking him out of the vehicle. This was not necessary as § 87(2)(b) eventually complied.

PO Lorenzi did not recall PO Schrell threaten to forcibly remove § 87(2)(b) from the vehicle.

Sgt. Minardi did not recall any officer threatening to forcibly remove § 87(2)(b) from the vehicle but state that if § 87(2)(b) had not eventually complied, officers would have been permitted to do forcibly remove him.

PO Crichlow did not recall what PO Schrell told § 87(2)(b) at the side of the vehicle, but he recalled § 87(2)(b) exiting the vehicle at some point of his own volition.

PO Vukosa stated PO Schrell spoke to § 87(2)(b) out of his earshot.

Officers are permitted to use reasonable force to gain compliance from an uncooperative subject NYPD Patrol Guide 221-02 (BR 21).

In the above-referenced footage, PO Schrell and Sgt. Minardi ask § 87(2)(b) out of the vehicle several times and he refuses to comply with the officers' instructions. Once § 87(2)(b)

tells officers he will not exit the vehicle, PO Schrell tells him officers will take him out. After this statement from PO Schrell, § 87(2)(b) exited the vehicle.

§ 87(2)(g)

**Allegation F – Abuse of Authority: Sergeant Gregg Minardi threatened to arrest § 87(2)(b)**

Footage from Sgt. Minardi's BWC captures this allegation (BR 05). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 2:35, PO Schrell tells § 87(2)(b) to step out of the vehicle and Sgt. Minardi reiterates this order twice more. § 87(2)(b) refuses. At 3:20, as § 87(2)(b) remains in his vehicle, Sgt. Minardi tells § 87(2)(b) he will be arrested for obstructing governmental administration. At 4:25, § 87(2)(b) still sat in his vehicle, appears to answer a phone call and speaks to someone on his cellphone. PO Schrell requests that he get off the phone as does PO Howe at 4:58, telling § 87(2)(b) he is obstructing officers. PO Howe tells him he can record or do anything he likes as long as he does not have anything in his hands. § 87(2)(b) continues holding his cellphone and having a phone conversation. At 5:20, Sgt. Minardi, after § 87(2)(b) leaves his vehicle and steps to the back of the vehicle with officers, tells him, "Hang up the phone because what's going to happen is you're going to get cuffed in about two seconds." § 87(2)(b) asks why. Sgt. Minardi tells him, "You're not following any orders."

Sgt. Minardi explained that, in general, if a motorist refused to leave a vehicle after being ordered out by an officer once marijuana is detected, they would be guilty of disorderly conduct and/or obstructing governmental administration (OGA). Sgt. Minardi stated that while § 87(2)(b) was guilty of OGA since he did not initially comply with leaving his vehicle when ordered to do so, he used his discretion in not charging him because § 87(2)(b) eventually left the vehicle. Sgt. Minardi stated the possibility of arresting him for OGA was probably mentioned by an officer but he did not specifically recall such a statement. Sgt. Minardi stated that if he himself stated this, it would have been as an explanation of fact in order to deescalate § 87(2)(b)'s combative behavior.

A person is guilty of OGA when he intentionally obstructs the administration of law or attempts to prevent a public servant from performing an official function by means of physical interference New York State Penal Law 195.05 (BR 22).

§ 87(2)(g)

§ 87(2)(g)

**Allegation G – Abuse of Authority: Sergeant Gregg Minardi refused to provide his shield number to § 87(2)(b)**

**Allegation H – Abuse of Authority: Police Officer Tyler Howe refused to provide his name to § 87(2)(b)**

**Allegation I – Abuse of Authority: Police Officer Tyler Howe refused to provide his shield number to § 87(2)(b)**

**Allegation J – Abuse of Authority: Police Officer Michael Crichlow refused to provide his name to § 87(2)(b)**

**Allegation K – Abuse of Authority: Police Officer Michael Crichlow refused to provide his shield number to § 87(2)(b)**

Footage from PO Schrell’s BWC captures these allegations (BR 03). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 4:12, § 87(2)(b) asks for the officers’ precinct and Sgt. Minardi tells him, “the 90.” § 87(2)(b) then specifically asks Sgt. Minardi, “What is your name?” and Sgt. Minardi provides his rank and last name. § 87(2)(b) then specifically asks PO Schrell, “And you are?” and she provides him her rank and last name, adding her shield number. At no other point in the available video footage, which is exhaustive of the entire incident, does § 87(2)(b) ask for any other identifying information from any officers.

§ 87(2)(b) alleged that he told all officers at the sides of his vehicle, whom he recalled to be Sgt. Minardi, PO Schrell, PO Crichlow, and PO Howe, that he wanted their names and shield numbers. Sgt. Minardi told him that he was, “Sgt. Manarity,” and did not provide his shield number. PO Schrell grabbed her shield and pulled it toward § 87(2)(b) stating her shield number and then her name as “Schrell.” § 87(2)(b) stated that PO Crichlow and PO Howe could hear his request for their names and shield numbers but they had no response.

§ 87(2)(g)

§ 87(2)(g)

**Allegation L – Abuse of Authority: Police Officer Michael Crichlow frisked § 87(2)(b)**

Footage from PO Schrell’s BWC partially captures this allegation (BR 03). At 5:30, after PO Schrell and Sgt. Minardi inform § 87(2)(b) they detected the odor of marijuana and instruct him to exit, § 87(2)(b) steps out of the vehicle and PO Crichlow frisks his waist and legs. Another angle of this frisk is from PO Crichlow’s BWC (BR 06). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 4:05, PO Crichlow begins his frisk of § 87(2)(b) and finishes at 4:22. He frisks his waist area and shorts pockets. In the available video evidence, no other officer is depicted frisking § 87(2)(b).

When § 87(2)(b) stepped out of the vehicle, he recalled Sgt. Minardi or PO Schrell frisking him by the side of his vehicle. They frisked his shoulders, entire torso, and his waistband. He did not describe a frisk of his pants pockets or legs. § 87(2)(b) stated that that he had never smoked marijuana or anything else in his vehicle and had no marijuana or paraphernalia, such as an ashtray, that would smell like smoked marijuana. § 87(2)(b) confirmed that he was the only driver of his vehicle and that no other individuals would have been able to smoke in his car without his knowledge, and he was not aware of anyone doing so. He disputed any odor of marijuana that could have emanated from his vehicle.

PO Crichlow had no independent recollection and based his testimony on a review of his BWC footage prior to his interview. After § 87(2)(b) exited the vehicle, PO Crichlow generally checked his pants pockets, but did not recall what exactly he did. He did so because of a detected odor of marijuana and was looking for marijuana and any other contraband § 87(2)(b) might have. PO Crichlow did not recall the specific detection of the odor of marijuana, such as who detected it or any other factors.

Sgt. Minardi stated that when § 87(2)(b) exited his vehicle, an officer frisked the outsides of his pockets to check for any marijuana. Sgt. Minardi did not specifically recall this take place or who conducted the frisk but stated it would have happened incident to the usual procedure

for vehicle stops involving the odor of marijuana. He smelled burnt marijuana coming from § 87(2)(b)'s vehicle.

PO Lorenzi stated that when § 87(2)(b) exited his vehicle, PO Crichlow came in front of PO Lorenzi and frisked § 87(2)(b)'s waistband and the front of his torso. PO Lorenzi did not know why he frisked § 87(2)(b). PO Lorenzi smelled burnt marijuana coming from § 87(2)(b)'s vehicle.

PO Vukosa stated PO Crichlow frisked § 87(2)(b) but PO Vukosa did not know why and did not recall the specific steps taken by PO Crichlow. He did not recall any odor of marijuana.

PO Schrell did not recall any frisk of § 87(2)(b) or detecting an odor of marijuana. She made it clear that a review of her BWC did not provide her with any independent recollection of the incident.

PO Howe did not recall any frisk of § 87(2)(b) or detecting an odor of marijuana.

§ 87(2)(g)

§ 87(2)(g)

**Allegation M – Abuse of Authority: Police Officer Michael Crichlow searched § 87(2)(b)**

Footage from PO Vukosa's BWC captures this allegation (BR 04). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 4:40, § 87(2)(b) exits his vehicle and PO Crichlow stands behind him at the side of § 87(2)(b)'s vehicle and frisks his waist and upper legs and finishes at 5:02. § 87(2)(b) is holding one cellphone in his right hand, apparently speaking to someone with it, and holds another cellphone in his left hand. PO Vukosa stands on § 87(2)(b)'s right so § 87(2)(b)'s left front and rear pockets are not visible. His right front and rear pockets are visible throughout his physical interaction with PO Crichlow who never reaches into either pocket and his hands are free of any objects during and following the frisk.

Footage from PO Crichlow's BWC also captures this allegation from his position behind § 87(2)(b) (BR 06). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 4:05, PO Crichlow begins his frisk of § 87(2)(b) and finishes at 4:22. § 87(2)(b)'s pants are visible throughout most of this frisk and at no point is PO Crichlow depicted reaching into any of § 87(2)(b)'s pants pockets and his hands are free of any objects during and following the frisk.

Footage from PO Schrell's BWC captures PO Crichlow's frisk from the left side of § 87(2)(b) (BR 03). The durational timestamp of the video will be referenced, not the on-screen timestamp. As PO Schrell moves around near the driver's door of § 87(2)(b)'s vehicle, PO Crichlow is briefly depicted frisking § 87(2)(b) at 5:30, 5:35, and 5:39, and at no point is PO Crichlow depicted reaching into any of § 87(2)(b)'s pockets.

§ 87(2)(b) stated that after he left his vehicle, an officer frisked him from behind and then reached into all four of his shorts pockets and removed the contents, which included a cellphone in his front right pocket and two sets of keys in his front left pocket. He held a second cellphone in his hand.

PO Crichlow recalled "checking" § 87(2)(b)'s pants pockets for marijuana, including frisking them, but did not recall what exactly he did or if he ever reached into any pockets.



PO Schrell, PO Howe, PO Lorenzi, Sgt. Minardi, and PO Vukosa never observed or recalled PO Crichlow reaching into any of § 87(2)(b)'s pockets.

§ 87(2)(g)

§ 87(2)(g)

**Allegation N – Abuse of Authority: Sergeant Gregg Minardi interfered with § 87(2)(b)'s use of a recording device.**

Footage from Sgt. Minardi's BWC captures this allegation (BR 05). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 5:50, Sgt. Minardi asks § 87(2)(b) to put his phone down as he does not want him holding anything. He clarifies to § 87(2)(b) that he did not tell him to stop recording. When § 87(2)(b) tells Sgt. Minardi how come he was not asking him to put his wallet down, Sgt. Minardi explains that it is because his wallet is a soft object and his phone is not.

§ 87(2)(b) took out a phone and recorded the interaction upon being initially pulled over. After he stepped out of his vehicle holding his phone in one hand and his wallet in the other, Sgt. Minardi told him to put the phone down. § 87(2)(b) asked why he had to put the phone down and not his wallet. Sgt. Minardi told him that it was because a phone is a hard object. § 87(2)(b) turned off the recording and placed his phone on the roof of the vehicle. § 87(2)(b) believed Sgt. Minardi told him to put the phone down so that he could not record what was happening.

Sgt. Minardi did not recall if § 87(2)(b) held a phone in his hands during the interaction. He did not recall if officers ever told § 87(2)(b) to put down a phone or anything else he was holding and explained that, procedurally, he tells individuals he interacts with that they are allowed to record but must put down any objects they are holding out of concern for officers' safety as hard objects, such as phones, could be used as a weapon.

§ 87(2)(g)

**Allegation O – Abuse of Authority: Police Officer Jessica Schrell searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation P – Abuse of Authority: Police Officer Tyler Howe searched the vehicle in which § 87(2)(b) was an occupant.**

**Allegation Q – Abuse of Authority: Sergeant Gregg Minardi searched the vehicle in which § 87(2)(b) was an occupant.**

Footage from PO Schrell's BWC partially captures these allegations (BR 03). From 6:05 to 7:38, PO Schrell searches the vehicle by removing rags from the open compartment in the lower part of the driver's door, rummaging around the foot well by the pedals, and holding a flashlight as PO Howe rummages through the center console and other parts of the front-center area of § 87(2)(b)'s vehicle. PO Schrell then opens the rear driver's side door and looks around the foot well with her flashlight, opens the armrest in the middle of the back seat, and places her left hand in the gap between the seat and the back on the left side of the back seat. She then leans and places

herself on her hands, and possible knees, in the back seat to inspect the other side. Her exact actions there are unclear as her camera is obscured. Another file of footage from PO Schrell's BWC partially captures these allegations (BR 07). From 0:00 to 1:40, PO Schrell finishes searching the rear seat and then moves to the back of the vehicle where § 87(2)(b)'s trunk opens and she rummages through its contents.

Footage from PO Howe's BWC better captures his search of § 87(2)(b)'s vehicle (BR 01). The durational timestamp of the video will be referenced, not the on-screen timestamp. From 6:24 to 8:17, PO Howe leans in to the front passenger area, opens and rummages through the dashboard, opens and rummages through two center consoles, during which he unzips and inspects a headphones case. PO Howe states, "You got weed literally everywhere throughout the car, all over the floor." PO Howe then activates a flashlight and leans down toward the foot well. The screen goes black as his camera is obstructed. PO Howe rises and removes two plastic bags from the open compartment in the lower part of the front passenger door before placing them back. PO Howe moves to the rear passenger-side door and puts his hand into the open compartment in the lower part of the door, apparently tries to fold the back seat upward and spreads the gap between the bottom and back parts of the seat. He then leans back out of the vehicle and closes the door.

Footage from Sgt. Minardi's BWC captures his search of § 87(2)(b)'s vehicle (BR 05). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 8:48, as PO Schrell rummages through the trunk, Sgt. Minardi also reaches in and touches something inside the trunk.

§ 87(2)(b) stated that that he had never smoked marijuana or anything else in his vehicle and had no marijuana or paraphernalia, such as an ashtray, that would smell like smoked marijuana. He disputed any odor of marijuana that could have emanated from his vehicle.

PO Schrell had no independent recollection of the incident. She recognized her voice in the above-referenced footage as asking § 87(2)(b) the last time he smoked marijuana and she assumed, based on the footage, it was because she smelled marijuana. She made it clear that any statements she provided were based solely on the footage and she still had no independent recollection after a review of her BWC footage. She recalled no search of the vehicle or if any marijuana was recovered at any point.

PO Howe did not independently recall detecting any odor of marijuana himself but was aware, based on a review of his own BWC footage, that at some point PO Schrell detected the odor and asked § 87(2)(b) to step out of the vehicle. PO Howe searched the vehicle with PO Schrell but did not recall specifically which areas he searched other than the right side of the interior. PO Howe did not independently recall making any visual observations that indicated the presence of marijuana. However, when presented the above-referenced footage, PO Howe identified himself as stating, "There's weed literally everywhere throughout the car, all over the floor," when searching the front passenger area. He explained this was "shake," or crumbs of marijuana, which would not have been enough to recover, voucher, or with which to take enforcement action. He did not recall anywhere else he observed such "shake."

When PO Lorenzi got to the side of the vehicle, he detected the odor of burnt marijuana coming from the vehicle, specifically from the rear driver's side window near where he stood. He looked inside the vehicle to see if there was any contraband or anything otherwise notable and recalled the vehicle to be free of objects and never made any observations of § 87(2)(b) that indicated to him that he was under the influence of marijuana.

Sgt. Minardi detected a strong odor of burnt marijuana coming out of the open windows of § 87(2)(b)'s vehicle. He only smelled it once directly next to the vehicle. He made no observations of § 87(2)(b) or visual observations of the vehicle that indicated the use or presence of marijuana. He did not recall who searched the vehicle, but stated no officer indicated to him that they recovered any marijuana from the interior of the vehicle. Once the interior of the vehicle was searched, § 87(2)(b) was asked to sit back inside and unidentified officers then

searched the trunk to try and locate the source of the odor of marijuana. Sgt. Minardi observed the search of the trunk, and stated he might have held or moved something within the trunk to assist.

PO Crichlow was aware, based on a review of his BWC footage prior to the interview, that at some point at least one officer detected the odor of marijuana, but did not recall any specifics such as who detected it or any other factors. He did not recall a search of § 87(2)(b)'s vehicle.

PO Vukosa recalled a search of the vehicle but never learned why any investigative steps were taken with § 87(2)(b)'s vehicle. PO Vukosa did not recall the odor of marijuana emanating from the vehicle or the motorist.

PO Schrell, PO Howe, Sgt. Minardi, PO Vukosa, and PO Crichlow had all received training through the NYPD involving detecting and testing marijuana in the field prior to this incident. All five of these officers cited extensive experience in dealing with multiple marijuana-related arrests, involving both fresh and burnt marijuana, and stated they were all familiar with the odor of burnt marijuana. PO Lorenzi had received no training in detecting marijuana but had been involved in multiple arrests and events involving marijuana in his experience since his appointment from October 7, 2015. Through his experience of being involved in approximately 30 marijuana-related arrests, he was familiar with the odor of fresh and burnt marijuana.

Police officers, qualified by training and experience, have sufficient probable cause to search an automobile based solely on the smell of marijuana smoke People v. Chestnut, 43 A.D.2d 260 [1974] (BR 33).

§ 87(2)(g)

**Allegation R – Abuse of Authority: Police Officer Tyler Howe failed to provide § 87(2)(b) with a business card.**

**Allegation S – Abuse of Authority: Sergeant Gregg Minardi failed to provide § 87(2)(b) With a business card.**

**Allegation T – Abuse of Authority Police Officer Michael Crichlow failed to provide § 87(2)(b) with a business card.**

**Allegation U – Abuse of Authority: Police Officer Joseph Lorenzi failed to provide § 87(2)(b) with a business card.**

It is undisputed that PO Lorenzi, PO Howe, and Sgt. Minardi searched § 87(2)(b)'s vehicle, the latter assisting with searching the trunk, and that PO Crichlow frisked § 87(2)(b). It is further undisputed that Sgt. Minardi had extensive verbal communication with § 87(2)(b) during the incident, including threatening to arrest him if he did not comply with officers' orders.

Footage from PO Schrell's BWC captures these allegations (BR 07). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 1:40, PO Schrell returns to the driver's window of § 87(2)(b) where he is seated inside the vehicle. PO Crichlow was previously at the door. PO Schrell offers an "information card" to § 87(2)(b) explaining it as "You see something, you hear something." § 87(2)(b) declines and PO Schrell and all the other officers leave. At no other point in the available footage does any other officer offer § 87(2)(b) any business cards.

Footage from PO Vukosa's BWC captures PO Lorenzi's search of § 87(2)(b)'s vehicle (BR 04). The durational timestamp of the video will be referenced, not the on-screen timestamp. At 0:31, as PO Vukosa approaches the vehicle, PO Lorenzi bends down and appears to look around at the interior of the vehicle through the open rear window on the driver's side. His head brakes the

plane of the vehicle. PO Lorenzi's search of the vehicle was not pleaded as an allegation as § 87(2)(b) did not testify to this search in his verified statement and no clear misconduct was captured by the video evidence.

§ 87(2)(b) stated that at the end of the interaction, PO Schrell offered a card she described as, "if you see something," which § 87(2)(b) declined to accept. The officers then returned to their vehicles and § 87(2)(b) drove away. None of the officers offered him a business card.

PO Howe did not recall how the stop was concluded but stated PO Schrell concluded it with § 87(2)(b). As he never spoke to § 87(2)(b) he did not offer him a business card. § 87(2)(b) never asked PO Howe for a business card. PO Howe stated that, traditionally, only the contact officer offers a business card, who he named as PO Schrell since she spoke to § 87(2)(b) at the driver's window upon officers' initial approach.

Sgt. Minardi also stated that he never offered a business card to § 87(2)(b) because that is the duty of the primary contact officer and he denied being that officer. Sgt. Minardi did not recall who that was.

PO Crichlow did not recall if any officer offered § 87(2)(b) a business card, and stated it would generally be offered after any stop. As he understood it, only the primary contact officer who initiated the car stop would have been obligated to offer one. When presented the above-referenced footage, PO Crichlow revised his testimony and explained he did not offer a card since PO Schrell offered one and § 87(2)(b) declined. Based on that declination, it did not make sense for PO Crichlow to also offer a business card.

When PO Lorenzi got to the side of the vehicle, he detected the odor of burnt marijuana coming from the vehicle and looked inside the vehicle to see if there was any contraband and recalled the vehicle to be free of objects. He specified he did not stick his head in the car and did not believe he stuck any other body part into the vehicle. When presented the above-referenced footage, PO Lorenzi identified himself as placing his head inside the vehicle. He did not initially recall doing so, but explained he did so to gain visual observations of the interior of the rear of the vehicle. He was checking if there were any visual indications of marijuana after detecting the odor. PO Lorenzi did not know if he ever offered a business card to § 87(2)(b).

An officer is to offer a business card to a person who is subject of certain law enforcement activity, including frisks and vehicle searches, at the conclusion of any such activity that does not result in an arrest or summons New York City Administrative Code 14-174 (BR 23).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g), § 87(4-b)

#### **Civilian and Officer CCRB Histories**

- This is the first CCRB complaint to which § 87(2)(b) has been party (BR 24).
- PO Schrell has been a member of service for seven years and has been subject of eight other allegations in four other CCRB complaints, none of which were substantiated (see officer history):
  - 201909693, 201910088, and 202000861 are under investigation.
  - § 87(2)(g)
- PO Howe has been a member of service for three years and has been subject of 25 other allegations in seven other CCRB complaints with one substantiation (see officer history):
  - 201810683 involved one substantiated allegation of a discourteous word. The Board recommended Command Level Instructions and the NYPD is yet to impose their own disposition.
  - 201909838 and 201910557 are under investigation.
  - § 87(2)(g)
- PO Lorenzi has been a member of service for four years and has been subject of two other allegations in two other CCRB complaints with no substantiations (see officer history):
  - § 87(2)(g)
- Sgt. Minardi has been a member of service for 14 years and has been subject of 47 other allegations in 14 other CCRB complaints with four substantiations (see officer history):
  - 201806785 involved a substantiated allegation of a frisk. The Board recommended Formalized Training and the NYPD imposed Formalized Training.
  - 201900335 involved two substantiated allegations of failure to provide RTKA cards. The Board recommended Formalized Training and the NYPD is yet to impose their own disposition.
  - 201901352 involved a substantiated allegation of failure to provide RTKA card. The Board recommended Command Level Instructions and the NYPD is yet to impose their own disposition.
  - 201909838, 201910088, and 201910557 are under investigation.

